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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,715	03/14/2001	Bowie G. Keefer	6454-58227	5818

7590 06/22/2004

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EXAMINER

LE, HOA VAN

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/808,715	Applicant(s) KEEFER ET AL.	
	Examiner Hoa V. Le	Art Unit 1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-36,39-40,42-43, 46, 51-52, 82-85, 92-93,101,104-105, 113-116 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 33-36,39-40,42-43, 46, 51-52, 82-85, 92-93,101,104-105, 113-116 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is in response to Paper filed received on 03 June 2004.

A. The record shows that there is only one broadest independent 113 was independently considered and searched. All others are integrally considered and searched only.

B. Applicants urged that there are inventions more than just the one as considered and searched on the record only and (2) other independent claims are not stood or fell with the broadest independent claim 113 as considered and searched on the record.

C. In view of the arguments, a restriction is made:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. The groups of claims (33-36, 39-40, 42-43, 46 and 51-52) and (82-83) with claims 82 being broadest, drawn to an electrical current generating system, classified in class 429, at least subclass 14. It was not independently considered or searched as a patentably different or distinct invention on the record.
- II. The groups of claims (92-93) and (101) with claims 92 being broadest, drawn to another electrical current generating system having materially different and distinct from that of Group I above as urged classified in class 429, at least subclass 17. It was not independently considered or searched as a patentably different or distinct invention on the record.

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- III. The groups of claims (104-105), (113) and (114) with claims (113) being broadest, drawn to an electrical current generating system, classified in class 429, subclass 34. It claims 113 was independently considered and searched in only. No gas purification technology or area has been considered or searched on the record since there were many issues and tasks to be handled as one.

The inventions of Groups I and II are all related to the systems but have the patentably different and distinct materials as made up and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants and have no evidence on the record that is not required the separate consideration and search since they are the obvious variants because the prior art being applied to one of them would be sufficient against all inventions, restriction for examination purposes as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed. The record shows that applicants that they are not stood or fell together.

Inventions of Groups (I and II) and Group III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, a process for generating an electrical current can be practiced with a system with a hydrogen supplying container and without the use of an additional purifying apparatus as well known, done and practiced in the art. Applicant should

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show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

Because these inventions are distinct for the reasons given above and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants and have no evidence of the record that are not required the separate consideration and search since they are the obvious variants because the prior art being applied to one of them would be sufficient against all inventions, restriction for examination purposes as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

D. Applicants urge that the independent and complete considerations, searches and applying of the references for more than one of the above patentably different or distinct inventions would be no serious burden. It was not done. It is disagreed since an additional consideration or search for more than one invention is burdensome, lacking of focusing and diluting a patentability of the claims for an overly handle many issues, tasks and inventions as one. It is now notified for the record as urged.

E. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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F. Other issues have not been considered until a proper election is made and resolved.

G. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:00 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
21 June 2004

HOA VAN LE
PRIMARY EXAMINER
Hoa Van Le